

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
JAIME KEELING, :
Plaintiff, : 10 Civ. 9345 (TPG)
: - against - : **OPINION**
NEW ROCK THEATER PRODUCTIONS, :
LLC, EVE HARS, and ETHAN GARBER, :
Defendants. :
-----x

This case involves claims by plaintiff for copyright infringement, breach of contract, and tortious interference with contract against defendants. Defendants have moved for reconsideration of this court's previous decision denying their motion to dismiss and, in alternative, request leave to file an interlocutory appeal. The court assumes familiarity with the facts of this case and the court's previous opinion.

Defendant's motion for reconsideration and request for leave to file an interlocutory appeal are denied.

DISCUSSION

Motion for Reconsideration

Defendants' motion relies on additional cases that defendants say support the dismissal of plaintiff's copyright claim. However, the additional cases pointed to by defendants would not change the court's previous decision. Each case pointed to by defendants is distinguishable.

The court acknowledges tension between the legislative history and some case law from other circuits on the primary issue before the court. Compare H.R. Rep. No. 94-1476, at 58 (1976), with Pickett v. Prince, 207 F.3d 402, 406 (7th Cir. 2000), and Sobhani v. @Radical.Media Inc., 257 F. Supp. 2d 1234 (C.D.Cal. 2003). However, without clear case law involving facts similar to those in this case, this court continues to interpret the copyright law to protect plaintiff under the facts alleged in this case.

Interlocutory Appeal

The availability of interlocutory appeals is an exception to the general rule that federal appeals courts have jurisdiction only over appeals from final decisions. This exception is used only in “exceptional cases” where early appellate review might “avoid protracted and expensive litigation.” Telectronics Proprietary, Ltd. v. Medtronic, Inc., 690 F. Supp. 170, 172 (S.D.N.Y. 1987).

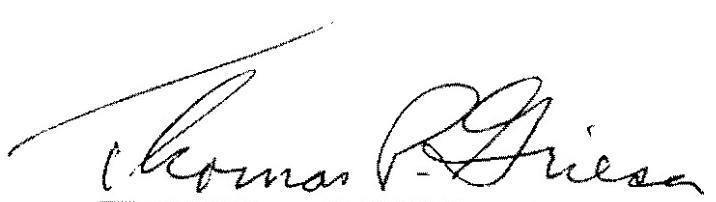
This case should not involve such protracted and expensive litigation. Any appeal at this point would involve unnecessary delay.

CONCLUSION

Defendants’ motion for reconsideration and request for leave to file interlocutory appeal are denied.

This resolves the motion listed as document 17 on this docket.

Dated: New York, New York
June 7, 2011


Thomas P. Griesa
Thomas P. Griesa
U.S.D.J.